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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**  
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9 Gary S. Duarte,

10 Plaintiff,

11 v.

12 Catalina Foothills School District No. 16,

13 Defendant.

No. CV-12-00844-TUC-JAS

**ORDER**

14 On 11/3/14, the Court held a pretrial conference with the parties to discuss  
15 pending matters related to the jury trial set for 11/4/14. At the pretrial conference, the  
16 parties expressed their respective positions pertaining to the admissibility of Defendant's  
17 Exhibit 54 which is a "no cause" determination from the Arizona Civil Rights Division  
18 ("ACRD"). The determination is simply a fill-in-the-blank form which has an "X"  
19 marked next to a sentence that summarily states that based on the ACRD's investigation,  
20 "the information is not sufficient to establish violations of the statute(s)." The Ninth  
21 Circuit has held that such "no cause" determinations are not per se admissible, but require  
22 the trial court to weigh its probative value against Rule 403 considerations. *See Beachy*  
23 *v. Boise Cascade Corp.*, 191 F.3d 1010, 1015 (9<sup>th</sup> Cir. 1999). As the fill-in-the-blank  
24 form does not discuss the extent of any investigation by the ACRD and does not give any  
25 analysis whatsoever, the probative value is minimal at best. In light of the low probative  
26 value of the determination and upon consideration of the Rule 403 factors, the Court  
27 finds that the minimal relevance of the ACRD's decision is outweighed by Rule 403  
28 factors such that it must be excluded at trial. *See Fed. R. Evid. 403* ("The court may

1 exclude relevant evidence if its probative value is substantially outweighed by a danger  
2 of one or more of the following: unfair prejudice, confusing the issues, misleading the  
3 jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”).

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5 Dated this 3rd day of November, 2014.

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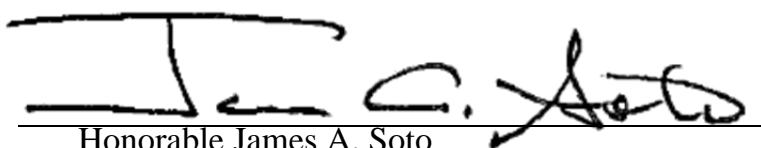
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Honorable James A. Soto  
United States District Judge